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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN SELBY UNITE, IAN MORRIS, DESMOND FRANCIS ARTHUR BRIGHT, JOHN WILLIAM MILLFORD, and EVA PRPIC

Appeal 2007-2311
Application 09/657,497
Technology Center 3600

Decided: May 29, 2008

Before JENNIFER D. BAHR, ANTON W. FETTING, JOSEPH A. FISCHETTI, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 1, 2, 4-6, 8-11, 13, 14, and 21-25. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

Claim 6, reproduced below, is representative of the subject matter on appeal.

6. A system for building and operating infrastructure for a large-scale sporting event, comprising:

information technology for the event, wherein the information technology includes computer systems or telecommunications equipment, the computer systems or telecommunications equipment including software embodied in computer-readable media and including hardware, and wherein the event includes:

a set of build processes generally followed by a set of testing processes, generally followed by a set of operations processes, generally followed by a set of game-day processes;

a set of management processes related to all of said build, testing, operations, and game-day sets of processes; and

wherein the information technology includes data embodied in computer-readable media representing i) inputs and outputs for ones of said processes and ii) a plurality of links, wherein the links provide connections linking outputs from ones of said build, test, operate, game-day, and management processes to inputs of respective other ones of the build, test, operate, game-day, and management processes;

wherein such a link has exit conditions embodied in computer-readable media of the information technology data and associated with the link, and the exit conditions for the link must be satisfied before the link can be traversed from output to input;

wherein sets of selected, sequentially-linked ones of the processes are assigned to selected project teams, and the sets are designated as respective process streams embodied in computer-readable media of the information technology data, so that dependencies among the teams are identified for a schedule of processes for building and operating infrastructure for the event;

wherein planning milestones embodied in computer-readable media of the information technology data are designated for ones of the outputs having links spanning across two or more of the process streams, so that dependencies among teams having an impact on the schedule are identified; and

wherein, to identify schedule risk, risk factors embodied in computer-readable media of the information technology data are assigned to the processes and the system generates a list of the processes for each team's process stream.

The references set forth below are relied upon as evidence of unpatentability:

Cox	US 5,890,130	Mar. 30, 1999
Gundewar	US 6,381,610 B1	Apr. 30, 2002

W.R. Duncan, *A Guide to the Project Management Body of Knowledge* (1996).

Independent claims 1, 6, 10, and 21 are the only independent claims from which all dependent appealed claims depend. Claims 1, 6, 10, and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Duncan in view of Gundewar and Cox.

Preliminarily, we address the scope of the system claims 1 and 6. Each of claims 1 and 6 recites a computer readable media on which is embodied (fixed) data which causes a computer system to be configured to function in a given way, e.g., associate inputs and outputs with ones of different processes, links outputs from one process to input of another, etc. Thus, we credit such data with configuring the computer system(s) to behave in the manner claimed, and thus treat the configurations caused by the fixed computer readable data as positive limitations.

Each of independent claims 1, 6, 10, and 21 requires *inter alia*:

1. processes which have inputs and outputs; (supporting claim language: *wherein data for the build, operate and management processes in the information technology include respective inputs and outputs embodied in computer-readable media*);

2. links connect outputs from one process with the inputs of another process; (supporting claim language: *forming a plurality of links associated with respective ones of the data inputs and outputs, wherein the links*

provide connections linking the outputs from ones of said build, operate, and management processes to the inputs of respective other ones of the build, operate, or management processes);

3. process streams = selected sequentially linked ones of the processes which are assigned to project teams; (supporting claim language: *assigning selected sets of sequentially-linked ones of the processes to selected project teams and designating the sets as respective process streams embodied in computer-readable media in the information technology data, so that dependencies among the teams are identified*); and

4. planning milestones designated for (located at) outputs with links spanning two or more process streams (supporting claim language: *designating planning milestones embodied in computer-readable media in the information technology data for ones of the outputs having links spanning across two or more of the process streams, so that dependencies among teams having an impact on the schedule are identified*).

It is thus apparent that the limitations in independent claims 1, 6, 10, and 21 are inextricably interconnected with one another, culminating in the limitation of designating planning milestones for ones of the outputs having links spanning across two or more of the process streams, so that dependencies among teams having an impact on the schedule are identified.

Appellants argue that neither Cox nor Gundewar "teach[es] or suggest[s] that milestones are designated for outputs *having links spanning across two or more of the process streams*, as claimed in the present case (emphasis added)." (Appeal Br. 13). In essence what Appellants are arguing is that the prior art combination fails to show milestones at the confluence of outputs from at least four processes given that a milestone is

required at outputs of two or more process streams and each process stream is defined by sequentially linked processes, the minimum of which sequentially linked processes being two. This arrangement permits certain sets of links and exit conditions to be "grouped to form milestones which are used to assist in monitoring the execution of the program." (Specification 12:7-9).

We agree with Appellants that none of Duncan, Cox, or Gundewar discloses planning milestones embodied in computer-readable media of the information technology data are designated for ones of the outputs having links spanning across two or more of the process streams, so that dependencies among teams having an impact on the schedule are identified.

The Examiner maintains that "Gundewar et al. teaches a method for automated project planning with entry and exit criteria that may include milestone, approval, procedure completions and/or design or production events necessary to enter or exit the particular process (see: column 5, lines 57-61)." (Answer 4).

However, Gundewar discloses:

> …a project manager or another user of system 10 accesses a specific project repository module 20 and initiates project planning for a Project X. Project repository module 20 presents the user with a project task template from task database 22. The project task template includes a list of major project tasks that may be associated with Project X and that are organized according to various stages of project planning.

(Gundewar, col. 4, ll. 35-41). Thus, Gundewar is directed to a list or template driven task management system/methods which are selectable by the user to see smaller tasks (Gundewar, col. 4, ll. 43-45). Furthermore,

Gundewar uses milestones only to enter or exit only "a particular process" (Gundewar, col. 5, ll. 60-61), rather than control flow between plural processes as required by the claims by locating the milestones at outputs having links spanning across two or more of the process streams, so that dependencies among teams having impact on the schedule are identified.

The Examiner relies on Cox, maintaining that "the flowchart with vertical and horizontal arrows representing communications (links) between different departments (teams) as equivalent to linking ones of the processes assigned to selected project teams, sets designated as respective process streams and spanning across two or more process streams." (Answer 5). However, even if one could read the various communications types enumerated in TABLE I of Cox as outputs of a process, nowhere does Cox disclose linking a milestone at the confluence of at least four such outputs (at least two process streams) which because the milestone links across such process outputs, identifies dependencies among teams having an impact on the schedule as required by the claims.

For at least these reasons, we cannot sustain the rejection of independent claims 1, 6, 10, and 21. Claims 2, 4-5, 8, 9, 11, 13, 14, and 22-25 depend from one of independent claims 1, 6, 10, and 21. Since we cannot sustain the rejection of the independent claims, for the reasons discussed above, the rejections of those claims which are dependent on the independent claims likewise cannot be sustained.

The decision of the Examiner to reject claims 1, 2, 4-6, 8-11, 13-14, and 21-25 is reversed.

REVERSED

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